



Reprinted
February 24, 2009

HOUSE BILL No. 1461

DIGEST OF HB 1461 (Updated February 23, 2009 5:41 pm - DI 96)

Citations Affected: IC 20-29; noncode.

Synopsis: School employers and school employees. Provides that school employers and noncertificated school employees have the right and obligation to discuss certain topics related to school employment and may (but are not required to) bargain collectively, negotiate, be subject to or enter into impasse procedures, or enter into a written contract. Provides that items included in a 2004-2005 or subsequent agreement between a school employer and employee organization of noncertificated school employees continue to be bargainable. Makes conforming changes.

Effective: July 1, 2009.

Kersey

January 13, 2009, read first time and referred to Committee on Labor and Employment.
February 19, 2009, amended, reported — Do Pass.
February 23, 2009, read second time, amended, ordered engrossed.

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HB 1461—LS 7425/DI 109+



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February 24, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1461

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-29-1-1, AS ADDED BY P.L.1-2005, SECTION
2 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2009]: Sec. 1. The general assembly declares the following:

4 (1) The citizens of Indiana have a fundamental interest in the
5 development of harmonious and cooperative relationships
6 between school corporations and their ~~certificated~~ employees.

7 (2) Recognition by school employers of the right of school
8 employees to organize and acceptance of the principle and
9 procedure of collective bargaining **or discussion, or both,**
10 between school employers and school employee organizations can
11 alleviate various forms of strife and unrest.

12 (3) The state has a basic obligation to protect the public by
13 attempting to prevent any material interference with the normal
14 public school educational process.

15 (4) The relationship between school corporation employers and
16 ~~certificated~~ school employees is not comparable to the
17 relationship between private employers and employees for the

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following reasons:

(A) A public school corporation is not operated for profit but to ensure the citizens of Indiana rights guaranteed them by the Constitution of the State of Indiana.

(B) The obligation to educate children and the methods by which the education is effected will change rapidly with:

- (i) increasing technology;
- (ii) the needs of an advancing civilization; and
- (iii) requirements for substantial educational innovation.

(C) The general assembly has delegated the discretion to carry out this changing and innovative educational function to the governing bodies of school corporations, composed of citizens elected or appointed under applicable law, a delegation that these bodies may not and should not bargain away.

(D) Public school corporations have different obligations concerning ~~certificated~~ school employees under constitutional and statutory requirements than private employers have to their employees.

SECTION 2. IC 20-29-2-13, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. "School employee" means a full-time certificated person in the employment of the school employer **or a noncertificated person in the employment of the school employer.** A school employee is considered full time even though the employee does not work during school vacation periods and accordingly works less than a full year. The term does not include:

- (1) supervisors;
- (2) confidential employees; **and**
- (3) employees performing security work. ~~and~~
- ~~(4) noncertificated employees.~~

SECTION 3. IC 20-29-6-1, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** School employers and **certificated** school employees shall:

- (1) have the obligation and the right to bargain collectively the items set forth in section 4 of this chapter;
- (2) have the right and obligation to discuss any item set forth in section 7 of this chapter; and
- (3) enter into a contract embodying any of the matters on which they have bargained collectively.

(b) School employers and noncertificated school employees:

- (1) shall have the right and obligation to discuss any item set**

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1 **forth in section 7(d) of this chapter; and**

2 **(2) may (but are not required to):**

3 **(A) bargain collectively;**

4 **(B) negotiate;**

5 **(C) be subject to or enter into impasse procedures; or**

6 **(D) enter into a written contract.**

7 SECTION 4. IC 20-29-6-4, AS ADDED BY P.L.1-2005, SECTION
8 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
9 2009]: Sec. 4. A school employer shall bargain collectively with the
10 exclusive representative **of certificated employees** on the following:

11 (1) Salary.

12 (2) Wages.

13 (3) Hours.

14 (4) Salary and wage related fringe benefits, including accident,
15 sickness, health, dental, or other benefits under IC 20-26-5-4 that
16 were subjects of bargaining on July 1, 2001.

17 SECTION 5. IC 20-29-6-7, AS ADDED BY P.L.1-2005, SECTION
18 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
19 2009]: Sec. 7. (a) A school employer shall discuss with the exclusive
20 representative of certificated employees the items listed in subsection
21 (b).

22 (b) A school employer may but is not required to bargain
23 collectively, negotiate, or enter into a written contract concerning, be
24 subject to, or enter into impasse procedures on the following matters:

25 (1) Working conditions, other than those provided in section 4 of
26 this chapter.

27 (2) Curriculum development and revision.

28 (3) Textbook selection.

29 (4) Teaching methods.

30 (5) Hiring, promotion, demotion, transfer, assignment, and
31 retention of certificated employees, and changes to any of the
32 requirements set forth in IC 20-28-6 through IC 20-28-8.

33 (6) Student discipline.

34 (7) Expulsion or supervision of students.

35 (8) Pupil/teacher ratio.

36 (9) Class size or budget appropriations.

37 (c) Items included in the 1972-1973 agreements between an
38 employer school corporation and the school employee organization
39 continue to be bargainable.

40 **(d) A school employer shall discuss with the exclusive**
41 **representative of noncertificated employees and may (but is not**
42 **required to) bargain collectively, negotiate, be subject to or enter**

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1 into impasse procedures, or enter into a written contract
2 concerning the following matters:

3 (1) Salary, wages, hours, and wage-related fringe benefits.

4 (2) Working and safety conditions.

5 (3) Procedures for selection, assignment, promotion, or
6 discipline of personnel.

7 (4) Procedures for student discipline.

8 (e) Any items included in the 2004-2005 or subsequent
9 agreement between an employer school corporation and employee
10 organization of noncertificated employees continue to be
11 bargainable.

12 SECTION 6. [EFFECTIVE JULY 1, 2009] (a) This act does not:

13 (1) apply to or abrogate a collective bargaining agreement or
14 memorandum of understanding; or

15 (2) preclude arbitration on a provision in a collective
16 bargaining agreement or memorandum of understanding;

17 in effect on June 30, 2009.

18 (b) This SECTION expires December 31, 2011.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1461 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 7, nays 5.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1461 be amended to read as follows:

Page 4, line 4, after "Working" insert "**and safety**".

(Reference is to HB 1461 as printed February 20, 2009.)

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